

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/0346**

**Re: Property at G/R, 208 Strathmartine Road, Dundee, DD3 8DE (“the Property”)**

**Parties:**

**Mr Ian Kirk, Mrs Valerie Kirk, Willowburn, 20 Lucklaw Road, Balmullo, Fife, KY16 0AU (“the Applicant”)**

**Miss Sarah Beattie, G/R, 208 Strathmartine Road, Dundee, DD3 8DE (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction by granted in favour of the Applicants.**

1. An application was received by the Housing and Property Chamber on 1<sup>st</sup> February 2019. It was dated 25<sup>th</sup> January 2019. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to grounds 11 and 12 schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
  - a. Copy tenancy agreement with commencement of tenancy being 3<sup>rd</sup> September 2018;
  - b. Notice to Leave signed 21<sup>st</sup> December 2018 stating an application would not be submitted to the Tribunal before 22<sup>nd</sup> January 2019;
  - c. Section 11 notice noting proceedings would not be raised before 1<sup>st</sup> February 2019;

- d. Rent statement from 3<sup>rd</sup> September 2019 to 3<sup>rd</sup> December 2018. This detailed the rent of £450 per month and arrears of £1492; and
  - e. Letter of authority from the Applicants to Housing and Property Chamber authorising Mr David Wilkie from The Property Management Company to act on their behalf.
3. On 20<sup>th</sup> February 2019, an email was submitted from Mr Wilkie that included the service of the documents upon the Respondent.
  4. On 3<sup>rd</sup> April 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 26<sup>th</sup> April 2019 at 10am at the Carers Centre, Dundee. The letter also requested all written representations be submitted by 21<sup>st</sup> April 2019.
  5. On 4<sup>th</sup> April 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Citation dated 4<sup>th</sup> April 2019.
  6. The case was conjoined with case FTS/HPC/CV/19/0347.

#### The Case Management Discussion

7. A CMD was held on 26<sup>th</sup> April 2019 at 2pm at Dundee Carers Centre. The Applicants were represented by Mr David Wilkie. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing. Mr Wilkie informed the Tribunal that the Respondent paid a £50 payment towards her deposit when the tenancy started. She still had not paid the remaining £400. Mr Wilkie brought an up-to-date rent statement which included the deposit the amount totalled £1942.00. This rent statement was for the period 3<sup>rd</sup> September 2018 to 2<sup>nd</sup> May 2019. In the application he had requested £1542 to requested represented the outstanding amount to the end of the period after the Tribunal. Mr Wilkie informed the Tribunal that the outstanding amount to the date of the Tribunal was £1432.27. Mr Wilkie informed the Tribunal that the arrears had accrued because the Respondent had the housing element of her Universal Credit paid directly to her initially and she had not paid the payment to the Applicants. Payments had started when the Applicants had applied for direct payments. All Universal Credit housing element payments were up to day and there were not arrears due.

#### Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 3<sup>rd</sup> September 2019.
9. The Respondent persistently failed to pay her rent charge of £450 per month.

10. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing.

11. At the date of the Tribunal the arrears totalled £1432.27. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application.

### Decision

12. The Tribunal found that ground 12 has been established and the granted an order in favour of the Applicant.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

**G Miller**

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Legal Member/Chair

26 APR 19  
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Date